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EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 18th June, 1971:—

Bill No. IX of 1971

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1971. Short title.

2. In clause (*1*) of article 19 of the Constitution, after sub-clause (*g*), the following sub-clause shall be inserted, namely:— Amendment of article 1

"(*h*) to an adequate means of livelihood.".

3. In article 39 of the Constitution, clause (*a*) shall be omitted. Amendment of article 3

STATEMENT OF OBJECTS AND REASONS

Article 39(*a*) forms part of the Directive Principles of the Constitution of India. In spite of a lapse of 22 years, the Directive Principles have, by and large, remained dead letters. The Supreme Court has taken the view that the Directive Principles of the Constitution cannot be enforced by courts. This amending Bill seeks to incorporate article 39(*a*) as a fundamental right in article 19 of the Constitution of India. Once the right to means of livelihood becomes a fundamental right, the Central and State Governments can be compelled to translate this right into practice by introducing suitable legislation. The citizen will then be in a position to enforce his fundamental right to "adequate means of livelihood" and hence this Bill.

M. S. GURUPADASWAMY.

FINANCIAL MEMORANDUM

It is not possible to furnish any financial statement as, at this stage, only a fundamental right is sought to be created. Financial implications, one way or the other, will arise as and when a State seeks to bring any subsidiary legislation calculated to enforce the new fundamental right. However, it is expected that the annual recurring expenditure on this account is not likely to exceed Rupees sixty crores so far as the Central Government is concerned. As regards the expenditure that would be incurred by the State Governments on this account, it is not possible to give even an approximate estimate of the amount involved.

Bill No. VIII of 1971

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1971.

Amendment of article 154.

2. For article 154 of the Constitution, the following article shall be substituted, namely:—

Council of Ministers to advise Governor.

"154. The Governor shall discharge his functions on the advice of the Council of Ministers.".

Amendment of article 163

3. In article 163 of the Constitution, for clause (*1*), the following clause shall be substituted, namely:—

Executive power of State.

"(*1*) The executive power of the State shall be vested in the Council of Ministers with the Chief Minister at the head."

Amendment of article 164.

4. In article 164 of the Constitution, for clause (*1*) the following clause shall be substituted, namely:—

Appointment of Ministers.

"(*1*) The person commanding the majority in the Legislative Assembly shall be appointed by the Governor as the Chief Minister of the State and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister."

STATEMENT OF OBJECTS AND REASONS

There have been serious controversies about the powers and functions of the Governors; in the recent past it has been noticed that different Governors have functioned in different, and at times in contrary, ways, in interpreting their powers *vis-a-vis* the Chief Ministers or Council of Ministers. It has also been observed that the same Governor has functioned, in a similar situation, in a different manner contradicting the stand taken by him on an earlier occasion. It is, therefore, necessary that articles 163 and 164 of the Constitution of India should be amended so as to make it incumbent on the Governor to exercise his powers only on the advice of the Council of Ministers.

The Bill seeks to achieve this purpose.

M. S. GURUPADASWAMY.

Bill No. XIII of 1971

A Bill to provide for machinery for fixation of wages and for improvement of working conditions of workers in the Film Industry.

BE it enacted by Parliament in the Twenty-Second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Film Industry Workers' (Improvement of Working Conditions) Act, 1971.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(*4*) It shall apply to every establishment in the film industry employing ten or more workers on any day during the preceding twelve months.

Provided that the Central Government or the State Government as the case may be, may, if it considers necessary, extend the Act to smaller establishments.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Wage Board constituted under section 6;

(*b*) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other persons, one or more employees in any establishment;

(*c*) "establishment" means a place where persons are employed for production including processing, distribution or exhibition of cinematograph films;

(*d*) "film industry" means any establishment engaged in production including processing, distribution or exhibition of cinematograph films;

(*e*) "Government" means the Central Government;

(*f*) "prescribed" means prescribed by rules made under this Act;

(g) "worker" means any person employed in any establishment to do any skilled, unskilled, manual, supervisory, technical, artistic or clerical work relating to production, processing, distribution or exhibition of cinematograph film and includes an artist, whether free lance or not, a script writer, a musician, a singer and a dancer but does not include any such person who, being employed in a supervisory capacity, draws wage exceeding one thousand rupees per mensem;

(*h*) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, shall have the meaning assigned to them in that Act.

14 of 1947.

CHAPTER II

RETRENCHMENT, GRATUITY, WAGES, RECOVERY

Act 14 of 1947 to apply to workers in film industry.

3. (*1*) The provisions of the Industrial Disputes Act, 1947, as in force for the time being, shall, subject to the modifications specified in sub-section (*2*) apply to, or in relation to, workers as they apply to, or in relation to, workmen within the meaning of that Act.

(*2*) Section 25F of the Industrial Disputes Act, 1947, in its application to workers, shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following period of notice in relation to the retrenchment of a worker had been substituted, namely:—

(*a*) three months in case of workers who have been in continuous service for a period of not less than two years, and

(*b*) two months in case of other workers.

Special provision in respect of certain cases of retrenchment.

4. Where at any time between the 14th day of August, 1958, and 1st day of March, 1960 any worker had been retrenched, he shall be entitled to receive from the employer, in case of retrenchment, the same benefits as are conferred on a worker retrenched under section 3.

Payment of gratuity.

5. (*1*) Where—

(*a*) any worker has been in continuous service, whether before or after the commencement of this Act, for not less than two years in any branch of the film industry, and—

(*i*) his services are terminated by the employer for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action; or

(*ii*) he retires from service on reaching the age of superannuation; or

(*iii*) he voluntarily resigns from service;

(*b*) any worker dies while he is in service in any film industry, the worker or as the case may be, his heirs shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid on such termination, retirement, resignation or death, by the employer gratuity, which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months. 14 of 1947.

(2) Notwithstanding anything contained in sub-section (*1*), where a worker is employed in an establishment to which this Act applies on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to the worker for any period of service before such commencement shall be equivalent to—

(*a*) three days' average pay for every completed month of service in excess of three months, if the period of such past service does not exceed ten months;

(*b*) five days' average pay for every completed month of service in excess of six months, if the period of such last service exceeds two years.

Constitution of Wage Board.

6. (*1*) **The Central Government may, by notification in the Official Gazette, constitute a Wage Board for fixing rates of wages in respect of workers in accordance with this Act.**

(2) **The Board shall consist of an equal number of persons nominated by the Central Government to represent the employers and an equal number of persons to represent the workers, and a person having sufficient experience of the working of the film industry appointed by the Central Government as the Chairman thereof.**

Explanation.— **The representative or representatives of the workers shall be nominated from amongst the members of the Unions or Associations of the workers.**

Fixation of Wages.

7. (*1*) In fixing the rates of wages in respect of workers, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employments, the circumstances relating to the film industry in different regions of the country, and to any other circumstances which to the Board may seem relevant.

(*2*) The Board may fix rates of wages for time work and for piece work.

(*3*) The decision of the Board fixing the rate of wages shall be communicated as soon as possible to the Central Government.

Publication of decision of Board and its commencement.

8. (*1*) The decision of the Board shall, within a period of one month from the date of its receipt by the Central Government, be published in such manner as the Central Government may think fit.

(*2*) The decision of the Board published under sub-section (*1*) shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication.

Powers and procedure of Board.

9. Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as an Industrial Tribunal con- 14 of 1947. stituted under the Industrial Disputes Act, 1947, exercises or follows for the purpose of adjudicating an industrial dispute referred to it.

Decision of Board to be binding on all employers.

10. The decision of the Board shall be binding on all employers in relation to establishments in the film industry and every worker shall be entitled to be paid wages at a rate which shall in no case, be less than the rate of wages fixed by the Board.

Recovery of money due from an employer.

11. Where any money is due to a worker from an employer, or any money so becomes due from any other person who succeeds to the title of the establishment in the film industry, under any provisions of this Act, whether by way of compensation, gratuity or wages, the worker may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the money due to him, and if the State Government or such authority as the State Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover that amount in the same manner as an arrear of land revenue.

CHAPTER III

REGISTRATION, LEAVE, OVERTIME, HOURS OF WORK

Registration.

12. (*1*) Every employer engaged in production and/or processing of films shall have his establishment registered under the Act with such authority as may be prescribed by the State Government.

(*2*) Licences for production of films shall be issued only if the employer—

(*i*) makes a deposit which shall be a percentage of the estimated expenditure on the film which he utilised for paying the wages of employees in the event of default by the producer;

(*ii*) has a complete script ready; and

(*iii*) has a minimum experience in the film industry.

Maintenance of registers records and muster rolls.

13. Every employer in relation to a film industry establishment shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

Hours of work.

14. (*1*) No worker shall be required or allowed to work in any film industry for more than one hundred and sixty eight hours during any period of four consecutive weeks, exclusive of the time for meals and leisure.

(*2*) Every worker shall be allowed during a period of seven consecutive days rest for a period of not less than twenty-four consecutive hours.

Explanation.—For the purpose of this section, week means a period of seven days beginning at midnight on Saturday.

Employment in shifts.

15. (*1*) Where work is required to be carried on for a period exceeding eight hours, workers will be employed in shifts.

(*2*) Workers will not ordinarily be employed in two consecutive shifts in a day save with previous permission obtained from the appropriate Government, they may be so employed provided that the worker is paid at the rate of three times of wage rates, fixed by the Wage Board constituted under section 6.

Leave.

16. (*1*) Every worker shall be entitled to—

(*a*) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(*b*) leave on medical certificate on one-half of wages for not less than one-eighteenth of the period of service; and

(*c*) ten days casual leave for every year of service.

(*2*) A worker shall cease to earn any leave when the earned leave due to him amounts to thirty days.

Employment of children.

17. Notwithstanding anything contained in section 67 of the Factories Act, 1948 the State Government may allow employment of a child, who has not completed its fourteenth year, in the production of cinematographic films. 63 of 1948.

Employment of women-workers.

18. Notwithstanding anything contained in section 66 of Factories Act, 1948, the State Government may make rules laying down the circumstances under which women workers may be employed in the production of cinematographic films between 7.00 p.m. and 6.00 a.m. 63 of 1948.

Glare and Shadows.

19. Notwithstanding anything contained in sub-section (3) of section 17 of the Factories Act, 1948 the State Government may make rules laying down standards for controlling glare or formation of shadows in the production of cinematographic films. 63 of 1948.

CHAPTER IV

WELFARE AND HEALTH

Rest-rooms.

20. In any establishment where workers are employed between 10.00 p.m. and 6.00 a.m. the employer shall provide sufficient number of rest-rooms or such other accommodation as may be prescribed by the State Government.

Canteens.

21. (*1*) In every place where production of cinematographic film is carried on, the employer shall be liable to provide for meals and refreshment at the proper time.

(*2*) In every film industry wherein twenty workers or more are employed, the employer shall provide for a canteen, which shall be subject to the same rules and regulations as are applicable to restaurants, hotels and other such centres under the Factories Act, 1948.

63 of 1948

First-Aid facilities.

22. There shall be provided and maintained by the employer so as to be readily accessible during all working hours, a first-aid Box equipped with the prescribed contents in every film industry or every place where it undertakes film production.

CHAPTER V

MISCELLANEOUS

Effect of Laws and agreements inconsistent with this Act.

23 (*1*) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act;

Provided that where under any such award, agreement, contract of service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(*2*) Nothing contained in this Act shall be construed to preclude any worker from entering into an agreement with an employer for granting rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

Appointment of Inspectors.

24. (*1*) The Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purpose of this Act at such place as may be specified in the notification.

(*2*) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

45 of 1860.

(*3*) An Inspector may at any establishment or other place where production of cinematographic films is undertaken and which falls within the area allotted to him,—

(*a*) enter with such assistants as he thinks fit any establishment or such other place where production of cinematographic films is undertaken.

(*b*) require any authority or person to produce any register, muster roll or other documents relating to the employment of workers and examine such documents;

(c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of this Act, or any other Act which is applicable to the film industry are complied with, notwithstanding any other authority who may be empowered with the same powers or any part thereof.

Penalty.

25. (*1*) If any employer contravenes the provisions of this Act or any other law for the time being in force governing the film industry or any place where film production is carried on, he shall be punishable with fine which may extend to one thousand rupees notwithstanding any other punishment to which he is liable for the contravention of any other law for the time being in force.

(*2*) No court shall take cognisance of an offence under this section unless the complaint thereof is made within two months of the date on which the offence is alleged to have been committed.

Indemnity.

26. No suit, prosecution or other legal proceedings Indemnity shall lie against the Chairman, any other member of the Wage Board or an Inspector appointed under this Act for anything which is in good faith done or intended to be done.

Power to make rules.

27. (*1*) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) Every rule made by the Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Most of the workers in the film industry are employed through middlemen. The method of recruitment of workers is beset with several evils. Favouritism and nepotism are rampant and the workers are exploited in a variety of ways.

As rates of wages paid to workers are not laid down, there is keen competition. The workers are exploited by suppliers. There is insecurity of work. Under-employment, unemployment and low wages are perpetual.

The working hours for workers in the industry are abnormal, irregular and strenuous. Minimum amenities such as leave, shift system, rest rooms, canteens and first-aid are not provided.

The Bill seeks to provide a machinery for fixation of wages and for improvement of the working conditions of workers in the film industry.

N. G. GORAY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill applies the provisions of the Industrial Disputes Act, 1947, to workers in the film industry with certain modifications. Under that Act, Industrial Tribunals have to be appointed to decide disputes arising in the Film industry. Those Tribunals, in some cases, would have to be appointed by the Central Government. Clause 6 of the Bill provides for the constitution of a Wage Board for fixation of Wages and Clause 21 provides for appointment of inspectors for the administration of the Act. These three clauses will, therefore, involve some expenditure. No exact idea is possible at this stage as to the amount of recurring and non-recurring expenditure that may be required. But to start with, a non-recurring grant of rupees two lakhs and a recurring grant of rupees fifty thousand would appear to be necessary.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 28 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill when enacted. The matters in respect of which rules may be made relate to the appointment of Wage Boards, administration of Welfare Fund etc. The delegation of legislative power is of a normal character.

Bill No. XI of 1971

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows :—

1. This Act may be called the Constitution (Amendment) Act, 1971. Short title.

2. In clause (1) of article 74 of the Constitution, after the words "Council of Ministers", the words and figures "consisting of not more than 45 Ministers" shall be inserted. Amendment of article 74.

3. In clause (1) of article 163 of the Constitution, after the words "Council of Ministers", the words and figures "consisting of not more than 30 Ministers" shall be inserted. Amendment of article 163.

STATEMENT OF OBJECTS AND REASONS

In the Parliamentry form of Government which has been functioning in India, the Council of Ministers is responsible for the administration of the country. There is, however, no provision in our Constitution regulating the size of the Council of Ministers. The matter is left to the discretion of the Prime Minister or the Chief Minister, as the case may be. This lacuna in the Constitution has been exploited by appointing any number of Ministers and introducing undesirable elements in the Administration. Floor crossing and defection are encouraged by appointing the defectors as Ministers. This unhealthy and undesirable trend in our political system should be checked. The Administrative Reforms Commission has also admitted that certain norms should be followed in fixing the number of Ministers both at the Centre and in the States.

This Bill aims to fix the number of Ministers both at the Centre and in the States.

PRANAB KUMAR MUKHERJEE.

Bill No. XII of 1971

A Bill further to amend the Constitution of India.

BE IT enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1971.

Amendment of article 280.

2. For clause (*1*) of article 280 of the Constitution, the following clause shall be substituted, namely:—

(*1*) There shall be a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

STATEMENT OF OBJECTS AND REASONS

Article 280 of the Constitution of India provides for the Constitution of a Finance Commission at the expiration of every fifth Year. Upto now five Finance Commissions have been constituted and they have submitted their reports. But the need of a permanent Finance Commission is now felt strongly in view of the changed political situation. Various States are demanding more economic and political power and this demand is taking the shape of political agitation in the country. Apart from it, the various State Governments are facing a lot of difficulties to meet the "non-plan revenue gap" in their budgets.

Deficit Budgets of the State Governments are causing serious concern to the Centre. To tackle these problems, the constitution of a standing Finance Commission is imperative. Various State Governments have also suggested the establishment of a standing Finance Commission. This Bill aims to provide for a standing Finance Commission.

PRANAB KUMAR MUKHERJEE

FINANCIAL MEMORANDUM

When this Constitution amending Bill is enacted and brought into force a Finance Commission on a permanent basis will have to be constituted. This will involve expenditure out of the Consolidated Fund of India on account of salaries to the Chairman, Members of the Commission, staff, etc. Non-recurring expenditure is likely to be Rs. 50,000 but recurring expenditure may be to the tune of Rs. 3 lakhs per year.

B. N. BANERJEE,
Secretary.

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